

Appln No. 10/826,982
Amdt. Dated July 26, 2006
Reply to Office Action of April 13, 2006

PATENT APPLICATION**Remarks/Arguments**

Claims 3 and 10-11 have been canceled. Claim 1 has been amended to (1) remove from the defined scope of R^1 a substitution of $-C(=O)R^b$, which would include an acetyl group and (2) define each of X^1 and X^2 to be either $C(R^2)$ or N. New claims 12-21 have been added. Support for the new claims may be found at least at pgs 5-12 of the specification as well as in the originally filed claims 1 and 4-9. No new matter has been added.

Claims 1-2, 4-9 and 12-21 are pending and claims 1-2 and 4-9 stand rejected. Presented herewith are arguments which Applicants believe will overcome the Examiner's rejections thereby rendering pending claims 1-2 and 4-9 and newly added claims 12-21 in condition for allowance. Finally, Applicants would like to thank the Examiner for full consideration, on the record, of each and every reference cited in Applicants' Information Disclosure Statement.

1. **CLAIM REJECTIONS UNDER 35 U.S.C. §102**

The Examiner has rejected claims 1-2 under 35 U.S.C. §102 as being anticipated by El-Dean et al, Pharmazie (1998) 53(12), pgs 839-843. In particular, the Examiner alleges that El-Dean discloses a compound number 7, which falls within the scope of Applicant's independent claim 1. Claim 1 has been amended to limit the definition of R^1 by removing from its scope an $-C(=O)R^b$ group substitution. Accordingly, this removes from the defined scope of Applicant's R^1 an acetyl group, which is present in El-Dean's compound No. 7. Thus, Applicant respectfully submit that El-Dean does not anticipate Applicant's claim 1, and claims 2 and 12 which depend therefrom. In addition El-Dean does not anticipate Applicant's claims 13-21. Particularly, El-Dean's compound No. 7 possesses a phenyl ring in place of Applicant's R^4 group. Applicant's claims 13-21 recite compounds where R^4 cannot be a phenyl ring. Accordingly, El-Dean does not anticipate Applicant's claims 13-21.

Furthermore, as El-Dean teaches the synthesis of compounds, having antibiotic and antifungal activity, which are structurally distinct and unrelated to Applicant's claimed compounds, and cited compound no. 7 is merely an intermediate to those unrelated compounds, Applicant's submit that El-dean fails to teach, suggest or motivate one of ordinary skill in the art to make Applicant's claimed compounds. To this end, El-Dean does not obviate Applicant's compounds claimed in independent claims 1 and 13 and claims dependent therefrom.

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2. CLAIM REJECTIONS UNDER 35 U.S.C. §112

The Examiner has alleged that claims 3-4 lack enablement thereby failing to comply with 35 U.S.C. §112, first paragraph. (Official Action dated 04-13-06, pg 3). Claim 3 has been canceled. Claim 4 is pending, and has not been amended. Applicant's respectfully submit that Applicant's specification fully discloses and enables the 'myriad' of diseases recited in claim 4. In particular, the background section teaches the relationship between the production of TNF- α and IL-1 β , IL-6 and IL-8 and various inflammatory conditions, including those recited in claim 4 (Applicant's specification pgs 1, lines 15-25). Such diseases related to inflammatory cytokines, including TNF- α and IL-1 β , IL-6 and IL-8, were published and known to those of ordinary skill in the art at the time Applicant filed the present application. Many of these references are cited in the background section of Applicant's specification. In addition, Applicant's compounds, disclosed and/or claimed in claims 1 and 13, are shown to be useful for regulating or reducing the cellular production of TNF- α (Applicant's specification pgs 32-33) and, therefore, would be useful for treating diseases related thereto. Thus, Applicant's respectfully request a withdrawal of the enablement rejection of claim 4.

The Examiner has rejected claims 1-11 under 35 U.S.C. §112, second paragraph, as being indefinite. Particularly, the Examiner cites to the definitions of X¹ and X². These definitions have been amended in independent claims 1 and 13 to recite X¹ or X², independently, as being either C(R²) or N, and the scope of R² is clearly defined in the originally filed claims. Accordingly, Applicants respectfully submit that this rejection is now moot and should be withdrawn.

2. CLAIM OBJECTIONS

The Examiner has objected to claims 10-11, as being duplicate to claim 9, while providing no additional patentable weight. Claims 10 and 11 have been canceled. Accordingly, Applicants respectfully submit that this rejection is now moot and should be withdrawn.


CONCLUSION

Applicants submit that the claim rejections and objections have been over come and respectfully request an early notice of allowance. Included herewith is a request for a one month extension of time to file this response, and the commissioner is hereby authorized to charge any filing fees which may be required or a credit for an over payment to deposit account 01-0519 in the name of Amgen Inc..

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